

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Cory Kramer,
Petitioner-Appellant,

v.

Dubuque County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-31-0054
Parcel No. 1506377010

On April 26, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Cory Kramer was self-represented but did not appear at hearing. The Dubuque County Board of Review designated Assistant County Attorney Lyle Gallart as its legal representative. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Cory Kramer is the owner of a residentially classified, single-family residence located at 14561 Forest Ridge Drive, Dubuque, Iowa. The property is a two-story brick home built in 2008 and has 4108 square feet of total above-grade living area. The property has a full basement with 1780 square feet of living-quarter finish. There is also an 1173 square-foot attached brick garage and a 481 square-foot wood deck with a 481 square-foot concrete patio beneath. The site is 3.53 acres.

Kramer protested to the Dubuque County Board of Review regarding the 2010 assessment allocated as follows: \$65,500 in land value and \$544,230 in improvement value for a total assessment of \$609,730. This was a change in value from the previous year's assessment.

In his protest, he did not assert what he believes to be the correct value. Kramer's claim was based on the following grounds: 1) that the assessment was not equitable compared with the

assessments of other like property under Iowa Code section 441.37(1)(a) and 2) that the property is not assessable, is exempt from taxes, or is misclassified under section 441.37(1)(c). Kramer claims the forest reserve exemption on his property was improperly removed.

The Board of Review denied the protest stating “the property is equitably assessed” and that “after a recheck by [a] county conservation officer, [the] timber does not meet the two acre minimum for contiguous area.”

Kramer then appealed to this Board reasserting his claims. He asserts the correct value of the subject property is \$500,000. Kramer also added a ground on appeal: that the property is assessed for more than the value authorized by law under section 441.37(1)(b). He plainly states the subject “property is over market value, appraisal value...” This ground was not pled to the Board of Review and, as such, we have no jurisdiction to consider it. We will only consider the claims of inequity and whether the property is exempt from taxes.

Kramer offered three properties for equity comparison on his petition to the Board of Review.

Parcel #	Owner	Assessed Value	Price p/SF
1506451008	Todd Locher	\$463,500	\$133
192820004	Mark Simon	\$567,200	\$118
1507202005	Doug Cocards	\$312,600	\$102

No other information about these properties was provided. The assessed value reported is assumed to be the January 1, 2010, value, however no property record cards were provided to verify this information. Additionally, it is unknown if the price per square foot reported by Kramer is based on the total assessment or the assessment of the improvement only, or some other type of breakdown in the assessment of the improvements. There simply is not enough information regarding these alleged comparables for us to determine if these properties are similar to the subject property.

The Board of Review did not offer any evidence relating to Kramer’s equity claim.

Kramer also asserts his property was taken out of the Forest Reserve without written notice or explanation. He further states he would like to have the “tax credit” reapplied to his property.

Notes on the subject’s property record card indicate that “land was removed from Forest Reserve for 2009. Not enough acres to qualify.” We note the assessor shall notify the claimant by April 15 of the disposition of the application for exemption. 701 IAC 80.9(2). The notification shall contain the actual value and classification of the property and a statement of the claimant’s right of appeal to the local board of review. *Id.* Notice in the form of an assessment roll would also be required if an exemption is removed. *Id.* 80.9(5). Because the forest reserve exemption was removed from the subject property in 2009, Kramer received notification of the removal when he received his January 1, 2009, assessment notice.

Dubuque County Assessor Dave Kubik testified that Kramer did not submit an application for the forest reserve exemption for the 2010 assessment year. An application for exemption must be filed with the appropriate assessor between January 1 and February 1. *Id.* 80.9(2)(a).

Kramer was notified in his January 1, 2009, assessment that the forest reserve exemption was removed from his property. He did not challenge that decision in 2009 by protesting to the Board of Review that year. This is a January 1, 2010, appeal and there was no application for a forest reserve exemption. Kramer must first file an application for the exemption, and then, if he is denied it, he can protest and appeal.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject is inequitably assessed or exempt from taxes.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act

apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is to determine the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Kramer provided three properties he considered as equity comparables. However, the information supplied was inadequate and unexplained.

In an exemption case, it is appropriate for the Appeal Board to "strictly construe a statute and any doubt about an exemption is resolved in favor of taxation." *Carroll Area Child Care Center, Inc. v. Carroll County Bd. of Review*, 613 N.W.2d 252, 254 (Iowa 2000). Kramer claims he did not have proper notification that the Forest Reserve exemption was removed from his property. However, the January 1, 2009, assessment notice which removed the exemption was his notice and would have complied with notification requirements under the rules. *See* 701 IAC 80.9(5). He did not appeal the 2009 removal. He did not reapply for the exemption in 2010. As such, we have no basis to consider his claim.

THE APPEAL BOARD ORDERS that the January 1, 2010 assessment of Cory Kramer's property located at 14561 Forest Ridge Drive, Dubuque, Iowa, is affirmed.

Dated this 6 day of June, 2011


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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APPELLANT

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-6</u> , 2011.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature:	